

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

WALTER JAMES GRANT, M.D.  
3641 Country Club Drive  
Bakersfield, California

Physician's and Surgeon's  
Certificate No. C-15022,

Respondent.

CASE NO. D-2834

L-25858

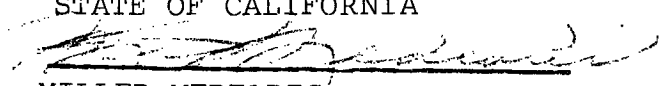
**DECISION**

The attached Proposed Decision of the Administrative Law  
Judge is hereby adopted by the Board of Medical Quality  
Assurance as its Decision in the  
above-entitled matter.

This Decision shall become effective on March 7, 1983.

IT IS SO ORDERED February 3, 1983.

DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

  
MILLER MEDEARIS  
Secretary-Treasurer

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

RECEIVED  
SACRAMENTO  
BOARD OF MEDICAL  
QUALITY ASSURANCE  
DEC 21 8 54 AM '82

In the Matter of the Accusation )  
Against: )

WALTER JAMES GRANT, M.D. )  
3641 Country Club Drive )  
Bakersfield, California 93306 )

CASE NO. D-2834

Physician's and Surgeon's )  
Certificate No. C-15022, )

L-25858

Respondent. )

PROPOSED DECISION

This matter came on regularly for hearing before Willis Mevis, Administrative Law Judge of the Office of Administrative Hearings, at Bakersfield, California, on October 5 and 6, 1982, at the hour of 9:00 a.m. Ruth Essegian, Deputy Attorney General, represented the complainant. The respondent appeared in person and was represented by Timothy Lemucchi, Attorney at Law. This matter was consolidated for hearing with the Accusation in Health Services Case No. 1-0040, OAH L-25859. Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge finds the following facts:

I

Robert G. Rowland is the Executive Secretary of the Board of Medical Quality Assurance (hereinafter referred to as "Board") and made and filed this Accusation in his official capacity.

II

On or about August 7, 1953, respondent Walter James Grant, M.D. (hereinafter referred to as "respondent") was issued physician's and surgeon's certificate no. C-15022 by the Board of

Medical Examiners (predecessor to the Board). At all times mentioned herein, said license has been and now is in full force and effect. At all times herein mentioned respondent was a Medi-Cal provider, assigned provider number 00C150220, within the meaning of Section 51051 of Title 22 of the California Administrative Code, and was certified to receive payment from the State of California under said provider number. Effective May 19, 1982, said provider permit was suspended for three (3) years.

### III

Respondent in writing admitted the facts set forth in the Accusation.

### IV

A. On or about March 19, 1981, in Superior Court of California, County of Kern, in a case entitled "People of California v. Walter J. Grant, M.D.," case number 21833, respondent, following his plea of guilty, was convicted of felony, grand theft, a violation of California Penal Code Section 487(1). Respondent was placed on probation for three years and ordered to pay, and has paid, to the Medi-Cal Program of the State of California the sum of \$21,714.03. Additional conditions of probation included the requirement that any future billings to Medi-Cal be cleared to the satisfaction of the Attorney General.

B. The underlying facts of said conviction are substantially related to the qualifications, functions or duties of a physician and surgeon.

### V

On the following patients, respondent submitted claims to the program for psychotherapeutic services purportedly rendered to said patients. In truth and in fact, said services were not rendered by respondent to said patients.

<u>PATIENT'S NAME</u>	<u>DATE OF CLAIMED SERVICES</u>	<u>CHECK NUMBER PAID TO DOCTOR</u>	<u>AMOUNT BILLED BY DOCTOR AND WRONGFULLY OBTAINED</u>
Donna A.	10-20-79	20617421	\$19.20
"	4-5-80	21487356	12.48
"	4-19-80	21487356	12.48
David A.	8-25-79	20294917	19.20
Susan A.	3-23-80	21366173	14.99

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Randi C.	3-23-80	21487356	17.20
"	4-5-80	21691514	6.00
Mark C.	10-20-79	20617419	19.20
"	4-5-80	21487355	12.48
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Ted C.	9-1-79	20676792	32.00
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"	3-23-80	21317898	20.70
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"	4-5-80	21581337	12.48
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Roy Lee D.	10-20-79	20676792	19.20
Rocky E.	3-23-80	21366172	14.99
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Barbara E.	3-23-80	21366173	15.00
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Joan S.	10 20-79	20617420	19.20
"	3-23-80	21417898	20.70
Sharon W.	10-20-79	20617420	<u>19.20</u>
TOTAL			\$719.79

On the following patients, respondent submitted claims to the program for psychotherapeutic services in excess of the actual time of service rendered to said patients:

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Donna A.	3-23-80	5-10 min.	25 min.	21417898	\$ 6.90
Lucille F.	3-23-80	5 "	" "	"	6.90
Cuba H.	3-23-80	10 "	" "	"	<u>6.90</u>
TOTAL					\$20.70

On the following patients, respondent submitted claims for psychotherapeutic services when in truth and in fact he only rendered treatment for physical ailments, but billed at the higher psychotherapy rate:

<u>PATIENT'S NAME</u>	<u>DATE OF SERVICE</u>	<u>CHECK NUMBER</u>	<u>AMOUNTS PAID AS BILLED FOR PSYCHOTHERAPY</u>	<u>MEDI-CAL ALLOWANCES IF PROPERLY BILLED</u>	<u>OVERPAYMENT WRONGFULLY OBTAINED</u>
Clifford G.	9-1-78	18230010	\$32.00	\$11.04	\$20.96
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"	5-15-78	17220590	32.00	11.04	<u>20.96</u>
TOTAL					\$358.40

The total of the examples above is \$1,098.89.

## VI

The respondent presented the following evidence by way of mitigation:

A. Respondent has been engaged in the practice of psychiatry since approximately 1946. He then entered army service followed by service for the Veterans Administration until 1974, at which time he accepted employment with the Kern County Mental Health Services for five years. He points out that in this thirty years plus of governmental service he has never involved in billing for any professional services and in particular in billing under Medi-Cal/Medicare procedures.

B. When respondent ultimately entered private practice, he sought and obtained the services of a friend, Edward Harris, a well qualified hospital administrator, to help set up his record keeping procedures.<sup>1/</sup>

C. Joyce Patterson, office manager for the respondent during 1978-1979, testified that it was her practice to call the board and care homes and obtain from them the visits of the doctor and obtain the "stickers" for the patients from them which she used in billing. Office visits were billed by the time she observed the patients to be in the office, checking the diagnosis from the chart. The respondent himself kept or maintained minimal records of and lists of patients other than medical charts. The record is blank as to whether this system of charging was of her own design, that of the respondent or of Edward Harris.

D. The record further established that the respondent maintained offices in the "poor part of town"; that his practice was 80% Medi-Cal; that he was the only psychiatrist in Bakersfield available to board and care homes on weekends; and that he never refused his services to anyone for the lack of funds. Local doctors of medicine testified as to the respondent's good character and professional ability.

#### VII

As a condition of probation the respondent was directed and has served \$16,000 per R.V.S. Code of community service, following the completion of which the probation was terminated.

#### VIII

The facts herein found to be true were established by clear and convincing evidence.

\* \* \* \* \*

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Grounds to suspend or revoke the respondent's license for unprofessional conduct were established pursuant to Business and Professions Code Sections 490, 2236(a) and (b), 2234(e), 2261, 2220 and 2234.

\* \* \* \* \*

---

<sup>1/</sup>As a condition of probation, the Court appointed Harris with the approval of the Attorney General's office, to oversee the respondent's billing.

WHEREFORE, THE FOLLOWING ORDER is hereby made:


The Physician's and Surgeon's Certificate No. C-15022, heretofore issued to Walter James Grant, M.D., is revoked; provided, however, said order of revocation is stayed for a period of five (5) years upon the following terms and conditions:

1. Respondent shall obey all the federal, state and local laws and all rules governing the practice of medicine in California.
2. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division stating where there has been compliance with all the conditions of probation.
3. Respondent shall comply with the Division's probation surveillance program.
4. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.
5. In the event respondent should leave California to reside or to practice outside the state, respondent must notify in writing the Division of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.
6. If respondent violates this probation in any respect, the Division after providing notice to respondent and giving him the opportunity to be heard may set aside the stay order and reimpose the order of revocation of respondent's certificate.

Upon successful completion of the five year period of probation, respondent's certificate shall be fully restored.

I hereby submit the foregoing which constitutes my Proposed Decision in the above entitled matter as a result of the hearing had before me on October 5 and 6, 1982, at Bakersfield, California, and recommend its adoption as the decision of the Board of Medical Quality Assurance.

DATED:                     

  
WILLIS MEVIS  
Administrative Law Judge  
Office of Administrative Hearings

WM:ss

*file*

*2-1300*

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STATE OF CALIFORNIA

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Against: )

WALTER JAMES GRANT, M.D. )  
Certificate No. C-15022 )

Respondent )

No. D-2834

L- 25858

NOTICE OF ORDER OF REMAND

TO: The hearing tribunal and to the parties and their attorneys of record:

In Ettinger v. Board of Medical Quality Assurance (1982) 135 Cal. App. 853, the Court of Appeal ruled "that the proper standard of proof in an administrative hearing to revoke or suspend a doctor's license should be clear and convincing proof to a reasonable certainty and not a mere preponderance of the evidence." (Ettinger rule)

Recently, the California Supreme Court denied the medical board's petition for hearing in the Ettinger case.

In light of these circumstances, on November 18, 1982, the Division of Medical Quality made an order remanding the above-captioned case to the hearing tribunal to include in its findings a statement of the standard of proof used in the case and to redetermine the cause in accordance with the Ettinger rule. The tribunal is requested to give this matter priority consideration and hopefully complete this remand within 45 days. The tribunal shall not take additional evidence.

DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE

DATED: Nov 24, 1982

By:

Stephen R. Wilford

STEPHEN R. WILFORD  
Assistant Executive Director



BEFORE THE  
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TOTAL					\$358.40

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D. The record further established that the respondent maintained offices in the "poor part of town"; that his practice was 80% Medi-Cal; that he was the only psychiatrist in Bakersfield available to board and care homes on weekends; and that he never refused his services to anyone for the lack of funds. Local doctors of medicine testified as to the respondent's good character and professional ability.

#### VII

As a condition of probation the respondent was directed and has served \$16,000 per R.V.S. Code of community service, following the completion of which the probation was terminated.

#### VIII

The facts herein found to be true were established by clear and convincing evidence.

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Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Grounds to suspend or revoke the respondent's license for unprofessional conduct were established pursuant to Business and Professions Code Sections 490, 2236(a) and (b), 2234(e), 2261, 2220 and 2234.

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<sup>1/</sup>As a condition of probation, the Court appointed Harris with the approval of the Attorney General's office, to oversee the respondent's billing.

WHEREFORE, THE FOLLOWING ORDER is hereby made:


The Physician's and Surgeon's Certificate No. C-15022, heretofore issued to Walter James Grant, M.D., is revoked; provided, however, said order of revocation is stayed for a period of five (5) years upon the following terms and conditions:

1. Respondent shall obey all the federal, state and local laws and all rules governing the practice of medicine in California.
2. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division stating where there has been compliance with all the conditions of probation.
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6. If respondent violates this probation in any respect, the Division after providing notice to respondent and giving him the opportunity to be heard may set aside the stay order and reimpose the order of revocation of respondent's certificate.

Upon successful completion of the five year period of probation, respondent's certificate shall be fully restored.

I hereby submit the foregoing which constitutes my Proposed Decision in the above entitled matter as a result of the hearing had before me on October 5 and 6, 1982, at Bakersfield, California, and recommend its adoption as the decision of the Board of Medical Quality Assurance.

DATED:                     

  
WILLIS MEVIS  
Administrative Law Judge  
Office of Administrative Hearings

WM:ss

1 GEORGE DEUKMEJIAN, Attorney General  
2 RUTH ESSEGIAN,  
3 Deputy Attorney General  
3580 Wilshire Boulevard  
4 Los Angeles, California 90010  
Telephone: (213) 736-2047

5 Attorneys for Complainant

6  
7  
8  
9 BEFORE THE  
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18  
19 COMES NOW complainant Robert G. Rowland, who, as cause  
20 for disciplinary action, alleges as follows:

21 1. He is the Executive Secretary of the Board of  
22 Medical Quality Assurance ((hereinafter referred to as "board")  
23 and makes and files this accusation in his official capacity as  
24 such and not otherwise.

25 2. On or about August 7, 1953, respondent Walter James  
26 Grant, M.D. (hereinafter referred to as "respondent"), was issued  
27 physician's and surgeon's certificate No. C-15022 by the Board of

1 Medical Examiners (predecessor to the board). At all times  
2 mentioned herein, said license has been and now is, in full force  
3 and effect. Respondent is a Medi-Cal provider, assigned provider  
4 number 00C150220, within the meaning of section 51051 of title 22  
5 of the California Administrative Code, and is certified to  
6 receive payment from the State of California under said provider  
7 number.

8 3. Pursuant to the provisions of section 2234 of the  
9 Business and Professions Code (all sectional references are  
10 to Business and Professions Code unless otherwise noted) formerly  
11 set forth in substance in sections 2360 and 2361, the Division of  
12 Medical Quality of the board may discipline any licensee who is  
13 guilty of unprofessional conduct.

14 4. Section 490 provides, in pertinent part, that a  
15 board may suspend or revoke a license on the ground that the  
16 licensee has been convicted of a crime, if the crime is substan-  
17 tially related to the qualifications, functions, or duties of the  
18 business or profession for which the license was issued.

19 5. Section 2236, subdivisions (a) and (b) of the code  
20 provides as follows:

21 "(a) The conviction of any offense substan-  
22 tially related to the qualifications, functions, or  
23 duties of a physician and surgeon constitutes unpro-  
24 fessional conduct within the meaning of this chapter.  
25 The record of conviction shall be conclusive evidence  
26 only of the fact that the conviction occurred.

27 "(b) The division may inquire into the



1 circumstances surrounding the commission of the crime  
2 in order to fix the degree of discipline or to determine  
3 if such conviction is of an offense substantially  
4 related to the qualifications, functions, or duties of a  
5 physician and surgeon. A plea or verdict of guilty or a  
6 conviction following a plea of nolo contendere made to a  
7 charge substantially related to the qualifications,  
8 functions, or duties of a physician and surgeon is  
9 deemed to be a conviction within the meaning of this  
10 section."

11 6. Respondent is subject to disciplinary action pur-  
12 suant to sections 490, 2220, 2234, and 2227 of the code in that  
13 he is guilty of unprofessional conduct within the meaning of  
14 section 2236, subdivisions (a) and (b) as more specifically  
15 alleged hereinafter:

16 A. On or about March 19, 1981, in Superior  
17 Court of California, County of Kern, in a case entitled  
18 "People of California v. Walter J. Grant, M.D.," case  
19 number 21833, respondent, following his plea of guilty,  
20 was convicted of felony, grand theft, a violation of  
21 California Penal Code section 487(1). Respondent was  
22 placed on probation for three years and ordered to pay  
23 to the Medi-Cal Program of the State of California the  
24 sum of \$21,714.03. Additional conditions of probation  
25 included the requirement that any future billings to  
26 Medi-Cal be cleared to the satisfaction of the Attorney  
27 General. The circumstances surrounding the commission

1 of the offense are set forth in paragraph 8 and are  
2 incorporated herein as though fully set forth at this  
3 point.

4 B. The underlying facts of said conviction  
5 are substantially related to the qualifications, func-  
6 tions or duties of a physician and surgeon.

7 7. Welfare and Institutions Code section 14107 provides  
8 that any person who, with intent to defraud, presents to the  
9 California Medical Assistance Program any false or fraudulent  
10 claim for furnishing services or knowingly submits false  
11 information for the purpose of obtaining greater compensation  
12 than that to which he is legally entitled, is punishable by  
13 imprisonment in the county jail not longer than one year or in  
14 the state prison not exceeding five years, or by fine not  
15 exceeding \$5,000, or by both such fine and imprisonment.

16 8. Respondent is subject to disciplinary action  
17 pursuant to sections 2360 and 2362 of the code in that he is guilty  
18 of unprofessional conduct within the meaning of section 2261,  
19 subdivision (f) of the code in that he has committed acts  
20 involving dishonesty and corruption, to wit:

21 Respondent has made a practice of submitting  
22 false claims and information to the California Medical  
23 Assistance Program (hereinafter referred to as the  
24 "program") for the purpose of obtaining greater  
25 reimbursement than that to which he was entitled in  
26 violation of Welfare and Institutions Code section 14107  
27 and section 51485 of title 22 of the California

Administrative Code. Specific examples follow:

On the following patients <sup>1/</sup>, respondent submitted claims to the program for psychotherapeutic services purportedly rendered to said patients. In truth and in fact, said services were not rendered by respondent to said patients.

Patient's Name	Date of Claimed Services	Check Number Paid to Doctor	Amount Billed by Doctor and Wrongfully Obtained
Donna A.	10-20-79	20617421	\$19.20
"	4-5-80	21487356	12.48
"	4-19-80	21487356	12.48
David A.	8-25-79	20294917	19.20
Susan A.	3-23-80	21366173	14.99
Wanda B.	3-23-80	21366173	14.99
"	4-5-80	21533641	3.00
Randi C.	3-23-80	21487356	17.20
"	4-5-80	21691514	6.00
Mark C.	10-20-79	20617419	19.20
"	4-5-80	21487355	12.48
"	4-1-9-80	21487355	12.48
Ted C.	9-1-79	20676792	32.00
"	10-20-79	20676792	19.20
"	3-23-80	21417898	20.70

1. The full names of the patients are known to complainant and may be provided to respondent upon discovery.

1	Ted C.	4-5-80	21487355	12.48
2	"	4-19-80	21487355	12.48
3	Blanche C.	3-23-80	21366173	14.99
4	"	4-5-80	21641576	15.00
5	Charlene D.	10-20-79	20617420	19.20
6	"	3-23-80	21417898	20.70
7	"	4-5-80	21581337	12.48
8	"	4-19-80	21581337	12.48
9	Roy Lee D.	10-20-79	20676792	19.20
10	Rocky E.	3-23-80	21366172	14.99
11	"	4-5-80	21581337	15.00
12	Barbara E.	3-23-80	21366173	15.00
13	Susan E.	8-17-78	17777881	19.20
14	"	8-31-78	17777881	19.20
15	Lucille F.	10-20-79	20617420	19.20
16	"	4-5-80	21487356	12.48
17	"	4-19-80	21487356	12.48
18	Mary G.	3-23-80	21417898	20.70
19	"	4-19-80	21487355	12.48
20	Jesse H.	3-23-80	21323499	14.99
21	"	4-5-80	21581337	15.00
22	Cuba H.	4-5-80	21487356	12.48
23	"	4-19-80	21487356	12.48
24	Esther J.	10-20-79	20617420	19.20
25	Robert M.	11-17-79	20983137	19.20
26	Daniel M.	12-19-78	18627276	32.00
27	Joan S.	10-20-79	20617420	19.20

1	Joan S.	3-23-80	21417898	20.70
2	Sharon W.	10-20-79	20617420	<u>19.20</u>
3				\$719.79

On the following patients, respondent submitted claims to the program for psychotherapeutic services in excess of the actual time of service rendered to said patients:

	<u>Patient's Named</u>	<u>Date of Service</u>	<u>Actual Time w/ Patient</u>	<u>Time Billed To Medi-Cal</u>	<u>Check No. Paid to Doctors</u>	<u>Overpayment and Amount of Money Wrong- fully Obtained</u>
11	Donna A.	3-23-80	5-10 min.	25 min.	21417898	\$6.90
12	Lucille F.	3-23-80	5 "	"	"	6.90
13	Cuba H.	3-23-80	10 "	25 "	"	<u>6.90</u>
14						\$20.70

On the following patients, respondent submitted claims for psychotherapeutic services when in truth and in fact he only rendered treatment, for physical ailments, but billed at the higher psychotherapy rate:

	<u>Patient's Name</u>	<u>Date of Service</u>	<u>Check Number</u>	<u>Amounts Paid as Billed for Psychotherapy</u>	<u>Medi-Cal Allowances if Properly Billed</u>	<u>Over- payment Wrongfully Obtained</u>
22	Clifford G.	9-1-78	18230010	\$32.00	\$ 11.04	\$20.96
23	"	9-19-78	18230010	32.00	11.04	20.96
24	Debra G.	6-6-79	19931751	19.20	11.04	8.16
25	Lorrie G.	7-17-78	17611703	32.00	11.04	20.96
26	Mary D.G.	9-19-78	18230010	32.00	11.04	20.96
27	Lena E.	3-14-79	19307213	32.00	11.04	20.96

1	Lena E.	3-28-79	19307213	32.00	11.04	20.96
2	Carol E.	12-13-78	18627274	32.00	11.04	20.96
3	"	12-27-78	18627274	32.00	11.04	20.96
4	Beatrice G.	12-13-78	18627273	32.00	11.04	20.96
5	"	12-29-78	18627273	32.00	11.04	20.96
6	Torrance H.	4-2-79	19523655	19.20	11.04	8.16
7	Shiana M.	4-2-79	19523655	19.20	11.04	8.16
8	Lidia Z.	5-5-78	17220590	32.00	11.04	20.96
9	"	5-15-78	"	32.00	11.04	20.96
10	Raquel Z.	10-16-79	20617416	32.00	12.48	19.52
11	Richard Z.	2-26-79	19090597	32.00	11.04	20.96
12	Teodoro Z.	5-5-78	17220590	32.00	11.04	20.96
13	"	5-15-78	"	32.00	11.04	<u>20.96</u>

\$358.40

The total of the examples above is \$1,098.89.

WHEREFORE, complainant prays that the Division of Medical Quality of the board hold a hearing on the matters alleged herein and, following said hearing, issue a decision:

1. Suspending or revoking Physician's and Surgeon's certificate number C-15022, heretofore issued to respondent Walter James Grant, M.D.; and

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2. Taking such other action as the division in its discretion deems necessary and proper under the circumstances.

DATED: November 24, 1981

  
ROBERT G. ROWLAND  
 Executive Secretary  
 Board of Medical Quality Assurance  
 State of California

Complainant

Re:rc  
03573110-LA81AD1187